

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KAMARIO SMITH,

Petitioner,

vs.

DWIGHT NEVEN, *et al.*,

Respondents.

Case No. 2:14-cv-01021-GMN-NJK

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner. Petitioner has paid the filing fee for this action. (ECF No. 3).

Petitioner has filed a motion for the appointment of counsel. (ECF No. 2). Pursuant to 18 U.S.C. § 3006(a)(2)(B), the district court has discretion to appoint counsel when it determines that the “interests of justice” require representation. There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). The petition on file in this action is well-written and sufficiently clear in presenting the issues that petitioner wishes to bring. The issues in this case are not complex. Counsel is not justified in this instance. The motion for appointment of counsel is denied.

IT IS THEREFORE ORDERED that petitioner’s motion for the appointment of counsel (ECF No. 2) is **DENIED**.

IT IS FURTHER ORDERED that the Clerk shall **FILE and ELECTRONICALLY SERVE** the petition (ECF No. 1) upon the respondents.

IT IS FURTHER ORDERED that respondents shall have **forty-five (45)** days from entry of this order within which to answer, or otherwise respond to, the petition. In their answer or other

1 response, respondents shall address all claims presented in the petition. Respondents shall raise all
2 potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
3 procedural default. **Successive motions to dismiss will not be entertained.** If an answer is filed,
4 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in
5 the United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have
6 **forty-five (45) days** from the date of service of the answer to file a reply.

7 **IT IS FURTHER ORDERED** that any state court record exhibits filed by respondents shall
8 be filed with a separate index of exhibits identifying the exhibits by number or letter. The hard copy
9 of all state court record exhibits shall be forwarded, for this case, to the staff attorneys in the **Reno**
10 Division of the Clerk of Court. The hard copy of all exhibits submitted to the Court shall be tabbed
11 and shall be bound along the top edge of the pages.

12 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the Attorney
13 General of the State of Nevada a copy of every pleading, motion, or other document he submits for
14 consideration by the Court. Petitioner shall include with the original paper submitted for filing a
15 certificate stating the date that a true and correct copy of the document was mailed to the Attorney
16 General. The Court may disregard any paper that does not include a certificate of service. After
17 respondents appear in this action, petitioner shall make such service upon the particular Deputy
18 Attorney General assigned to the case.

19 **DATED** this 21st day of October, 2014.

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23 Gloria M. Navarro, Chief Judge
24 United States District Court
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